



Assessment Conference Determination

Company:	<u>Standard Banner Coal Corporation</u>	Permit No.:	<u>1202033</u>
Penalty of:	<u>Notice of Violation HNM0004668</u>	Violation No.:	<u>1 of 1 (WM)</u>
Conference:	<u>April 16, 2012 @ 10:00 AM</u>	Location:	<u>Mine site</u>
Participants:	<u>Mike Clisso (Engineering Services- Consultant), Elsey Harris (Attorney for the Permittee)</u>		

Summary of Conference

Mr. Clisso stated that J7 Environmental, Inc. was the monitoring company that was responsible for collecting the water samples from this permit. The collected samples were to be taken to Summit Engineering to be analyzed. Summit would send the results to the company's president, Mr. Conrad McNeer, to sign the water monitoring reports and then the water monitoring information would be mailed to the Division.

Mr. Harris presented a copy of a letter from J7 Monitoring, Inc. dated May 17, 2011 to Engineering Services that stated that water monitoring services would no longer be available after June 30, 2011. (See below.) Mr. Harris stated that based on the letter, the company thought that water monitoring would continue thru June 2011. However; water monitoring had stopped in March of 2011. Mr. Harris stated that Mr. McNeer was relying on Sumitt Engineering to send the necessary reports to him and did not know that the reports were late. He also stated that the past bills for water monitoring services were paid and that they assumed that was continuing to occur.

Mr. Clisso stated that the company was unaware that they were delinquent on water sampling or reporting requirements from March 2011 thru June 2011 until the inspector issued the Notice of Violation. He stated that the same company was monitoring this permit in December and did not know why Piezometer P-2 ceased to be monitored in December 2010. He stated that Engineering Services began collecting the required water samples in July of 2011. Mr. Clisso stated that the missing water monitoring data was not a serious issue since the site was not active and there were no water quality problems at the site.

Inspector McDonald-Taylor stated that there were no water quality problems at this site.



May 17, 2011

Mr. Jerry Mooney
Engineering Services
P.O. Box 750
Wise, VA 24293

RE: Discontinuation of Services

Dear Mr. Mooney:


It is with regrets that we wish to inform you of our discontinuation of services for Engineering Services, effective June 30, 2011.

The decision for this discontinuation was not an easy one to make as J7 Environmental has valued and appreciated our working relationship during the past two years with Engineering Services. However, due to the current economic climate, and our need to reduce staffing and other costs, J7 Environmental feels that this is the best course of action for us at the current time.

Hopefully, this notification will provide Engineering Services enough notice to effectively institute any measures needed to ensure the continuation of your scheduled monitoring program. J7 Environmental would be happy to assist you in this transition over the interim period, in anyway needed, up to June 30, 2011.

If you have any questions, please contact me at 276-701-0750.

Sincerely,


Jessie Thacker
President/ Owner
J7 Environmental, Inc.

JT/file

Assessment Conference Recommendation

It is my recommendation to lower the proposed seriousness points assigned to this violation to two (2) points. This violation resulted from not collecting, analyzing, or submitting the required water monitoring data. It is an administrative requirement of the permittee's approved NPDES permit to submit the required water monitoring data to the Division. This data must be submitted so that a proper evaluation can be made of any potential adverse impacts that may occur to the hydrologic balance of the area. All monitoring data (surface water, groundwater, and in-stream) was missing from this site for the entire 2nd quarter of 2011. In fact, no monitoring of piezometer P-2 occurred for over 6 months (January 2011 thru June 2011). Monitoring of surface water discharges and ground water quality is especially important since this area has been disturbed for many years. Without complete data, the Division's ability to determine the impacts from this disturbed mine site was impeded. However, a review of the past monitoring reports shows that this site had been monitored for many years and the sediment basin rarely discharged. Also, the adjacent stream is protected from the disturbed area by a substantial berm. Therefore, there is less potential for environmental damage.

It is my recommendation that the three (3) points proposed for negligence for this violation be affirmed. According to the information presented at this assessment conference, the permittee contends that based on a letter from J7 Environmental, Inc., monitoring of this site should have continued thru June 30, 2011. However; the letter from J7 Environmental, Inc. was written to Engineering Services, not to Standard Banner Coal Corp., and does not specifically address the water monitoring for this permit. Obviously, proper water monitoring of this site did not occur, including some monitoring that ceased in December 2010. It is the sole responsibility of the permittee to ensure that all the required monitoring be completed. The permittee did not exercise the reasonable care necessary and expected to prevent this type of violation. Furthermore, it is noted that this violation existed for an extended time period. In fact, the permittee admits that they were not aware that monitoring had ceased at this site until the inspector issued the violation. This failure only adds to the permittee's negligence. Clearly, the permittee was not diligent in assuring that NPDES program requirements were being met.

This N.O.V. was non remedial. Good Faith is not considered.

Assessment Conference Determination:

Permit No. NOV# HNM0004668, violation 1 of 1 (WM)

	Proposed Assessment or Reassessment	Assessment Conference Recommendation
I. History of previous violation	\$ 0.00	\$0.00
II. Seriousness Points	3	2
III. Negligence Points	3	3
IV. Good Faith Points	0	0
Total Points:	6	5
Base Penalty:	\$ 400.00	\$325.00
History Penalty:	\$ 0.00	0
Total Penalty:	\$ 360.00*	\$292.00*
	* Includes 10% reduction of base penalty per 4VAC25-130-845.13(e) (1) VCSMRR.	* Includes 10% reduction of base penalty per 4VAC25- 130-845.13(e) (1) VCSMRR.

Conference Officer: _____
James Lowe

Date: 5/9/2012 _____